

February 15, 2019

**VIA FEDEX & ELECTRONIC MAIL**

The Associated Press  
c/o Jay Ward Brown  
Outside Counsel to The Associated Press  
1909 K Street, NW, 12th Floor  
Washington, DC 20006  
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RE: *Defamation of Nick Sandmann*

Dear Jay:

As we discussed, I represent Nick Sandmann (“Nick”) and his parents and I have been engaged by the Sandmann Family to investigate and pursue legal redress for the false and defamatory accusations published by *The Associated Press* (“AP”) against Nick in connection with the events at the National Mall in Washington, D.C. on January 18, 2019, which occurred after Nathan Phillips (“Phillips”) confronted Nick and other students of Covington Catholic High School (the “January 18 Events”). You informed me that I should send my clients’ retraction demand to AP to you as you are counsel for AP. Accordingly, in order to afford AP an opportunity to mitigate the substantial harm it has caused to Nick, I hereby demand that AP immediately retract and correct the defamatory statements identified herein, as well as immediately remove from the Internet each of the online articles referenced herein.

Between January 19, 2019, and January 26, 2019, AP published a series of online and print articles containing false and defamatory statements which conveyed that Nick instigated the incident with Phillips and engaged in racist and unlawful conduct by accusing Nick of the following conduct, among other things:

- (a) actively surrounding and/or mobbing Phillips while Phillips was merely engaged in song and prayer;
- (b) intentionally blocking Phillips’ path to the Lincoln Memorial or otherwise restricting his egress from a confrontation instigated by Nick;
- (c) taunting Phillips and others;
- (d) mocking Phillips and others;
- (e) assaulting or otherwise physically threatening Phillips; and

- (f) engaging in racist behavior, including hurling racial slurs or other inappropriate comments at Phillips and/or the Black Hebrew Israelites.

The gist of *AP*'s reporting and its discrete false factual accusations against Nick are defamatory *per se* and were published negligently and with a reckless disregard for the truth. As *AP* intended, expected, and even contracted with other publications to ensure, these false accusations were republished by outlets worldwide. Accordingly, not only are damages to Nick caused by its own publications presumed, but *AP* is also liable for damages caused by each and every republication of the false and defamatory articles identified herein.

Further, by publishing its articles, *AP* orchestrated and joined an agenda-driven mainstream and social media mob whose goal was to harass, threaten, disparage, and vilify Nick, a 16-year old minor who literally and factually did nothing more than stand still when unexpectedly confronted by an adult Native American activist beating a drum and singing loudly within inches of his face while surrounded by cameras. With its online circulation, as well as the print circulation of those who rely on *AP* for content, *AP* provided a worldwide megaphone to the false and defamatory narrative that Nick instigated a racist confrontation by seeking out and surrounding Phillips in order to taunt, mock, and physically threaten him and his fellow activists while they were allegedly on their way to pray and sing at the Lincoln Memorial.

As *AP* now must acknowledge, the truth is that Nick was the victim of the actions of adults at the Lincoln Memorial and the subsequent mainstream media and social media mob which attacked, vilified, and threatened him. Nick and his Covington Catholic High School classmates were subjected to more than an hour of racist and homophobic slurs, as well as threats of physical violence, by the Black Hebrew Israelites, a recognized hate group. In response and with the permission of their school chaperones, the students engaged in a school spirit cheer to drown out the hateful speech being hurled at them. In the midst of an ongoing school cheer, Phillips and his activist companions intentionally sought out and confronted Nick and his classmates while carrying cameras in the hope of creating and capturing a viral moment on film. Phillips confronted the group of students and chose Nick as his target. Phillips never attempted to move past, around, or away from Nick. Indeed, when the students' buses arrived for the students' return trip to Kentucky, Phillips did not proceed to the Lincoln Memorial, rather he turned around and celebrated his perceived "win" with his camera-toting activist companions.

My investigation establishes that *AP* has failed to correct its reporting or publish the incontrovertible truth of this incident despite its pervasive presence in the public domain. Although it is clear that *AP* published the accusations against Nick with a reckless disregard for the truth and otherwise purposefully avoided the truth, Nick is a private figure and need only prove negligent publication in order to prevail in a defamation action against *AP*. The negligence of *AP* is beyond dispute as *AP* did not undertake any reasonable investigation prior to publishing its false accusations and also relied in part on a biased source whose documented lies should have raised serious issues regarding his credibility. *AP*'s conduct in rushing to judgment and relying on incomplete information, manufactured evidence, and biased sources is legally and factually inexcusable.



In the event *AP* questions the accuracy of my statements describing the truth of what occurred during the January 18 Events, I suggest you review the attached report prepared by Greater Cincinnati Investigation, Inc. (“GCI”), an independent investigative firm retained by counsel for the Diocese of Covington. Nick told the truth. *AP* published lies. A compilation of video clips that were available online for review as part of a reasonable investigation, but ignored by *AP*, can be found at <https://www.youtube.com/watch?v=ISkpPaiUF8s>, entitled “Nick Sandmann: The Truth in 15 Minutes” (the “Video”). The GCI report, the Video, and the detailed statement of Nick Sandmann (also available online) set forth the true events of January 18 and unequivocally prove the falsity of *AP*’s reporting and the articles described herein.

Below you will find a recitation of the specific articles that *AP* must take down and the defamatory statements that must be retracted.

**A. The First False and Defamatory Article, January 19: “Students in ‘MAGA’ hats mock Native American after rally” (the “First Article”)<sup>1</sup>**

In its First Article, *AP* published the following statements which must be retracted:

1. The headline “Students in ‘MAGA’ hats mock Native American after rally”
2. The sub-headline “The Roman Catholic Diocese of Covington Kentucky is looking into this and other videos that show youths, possibly from the diocese’s all-male Covington Catholic High School, mocking Native Americans at a rally in Washington.”
3. “A diocese in Kentucky apologized Saturday after videos emerged showing students from a Catholic boys’ high school mocking Native Americans outside the Lincoln Memorial after a rally in Washington.”
4. “Videos circulating online show a youth staring at and standing extremely close to Nathan Phillips, a 64-year-old Native American man singing and playing a drum. Other students, some wearing Covington clothing and many wearing ‘Make America Great Again’ hats and sweat shirts, surrounded them, chanting, laughing and jeering.”
5. “In a joint statement, the Roman Catholic Diocese of Covington and Covington Catholic High School apologized to Phillips. Officials said they are investigating and will take ‘appropriate action, up to and including expulsion.’ ‘We extend our deepest apologies to Mr. Phillips,’ the statement read. ‘This behavior is opposed to the Church’s teachings on the dignity and respect of the human person.’”
6. “Marcus Frejo, a member of the Pawnee and Seminole tribes who is also known as Chief Quese Imc, said he had been a part of the march and was among a small group of people

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<sup>1</sup> Although *AP*’s online version of this article now states it was published on January 20, it was republished by other outlets on January 19.

remaining after the rally when the boisterous students began chanting slogans such as ‘Make America great’ and then began doing the haka, a traditional Maori dance. In a phone interview, Frejo told The Associated Press he felt they were mocking the dance and also heckling a couple of black men nearby. ... Frejo said he joined Phillips to defuse the situation ... Although he feared a mob mentality that could turn ugly, Frejo said he was at peace singing despite the scorn. ... ‘They went from mocking us and laughing at us to singing with us.’”

7. “‘When I was there singing, I heard them saying “Build that wall, build that wall,”’ Phillips said, as he wiped away tears in a video posted on Instagram.”

8. “‘State Rep. Ruth Buffalo, a North Dakota state lawmaker and member of the Mandan, Hidatsa and Arikara Nation, said she was saddened to see students showing disrespect to an elder who is also a U.S. military veteran at what was supposed to be a celebration of all cultures. ‘The behavior shown in that video is just a snapshot of what indigenous people have faced and are continuing to face,’ Buffalo said.”

9. “‘U.S. Rep. Deb Haaland, D-New Mexico, who is a member of the Pueblo of Laguna and had been at the rally earlier in the day, used Twitter to sharply criticize what she called a ‘heartbreaking’ display of ‘blatant hate, disrespect, and intolerance.’ Haaland, who is also Catholic, told AP she was particularly saddened to see the boys mocking an elder, who is revered in Native American culture. ... ‘It is sad that we have a president who uses Native American women’s names as racial slurs, and that’s an example that these kids are clearly following considering the fact that they had their ‘Make America Great Again’ hats on,’ Haaland said. ‘He’s really brought out the worst in people.’”

**B. The Second False and Defamatory Article, January 19: “Catholic school apologizes over viral video of students mocking Native American elder in D.C.” (the “Second Article”)**

In its Second Article, *AP* published the following statements which must be retracted:

1. The headline “Catholic school apologizes after viral video shows students mocking elderly Native American man.”

2. “A private school in Kentucky apologized Saturday after its students were filmed mocking a Native American elder near the Lincoln Memorial in Washington, D.C.”

3. “‘We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general,’ the school said in a statement. ‘We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church’s teachings on the dignity and respect of the human person.[’] ‘The matter is being investigated and we will take appropriate action, up to and including expulsion,’ the statement said.”



4. “Footage filmed near the Lincoln Memorial on Friday showed a group of boys – including several wearing hats bearing President Trump’s campaign slogan, ‘Make America Great Again’ — taunting a man subsequently identified as Mr. Phillips, a Vietnam War veteran and the former director of the Native Youth Alliance.”

5. “In a video filmed after the incident, Mr. Phillips said he heard the teens repeat a chant popularized by Mr. Trump’s supporters: “‘build that wall, build that wall.’”

**C. The Third False and Defamatory Article, January 20: “The Latest: Man says students wound up singing with him” (the “Third Article”)**

In its Third Article, *AP* published the following statements which must be retracted:

1. “The Latest on videos showing Kentucky students mocking a Native American at a rally in Washington . . . .”

2. “Marcus Frejo, a member of the Pawnee and Seminole tribes who is also known as Chief Quese Imc, said he had been a part of the march and was among a small group of people remaining after the rally when the boisterous students began chanting slogans such as ‘Make America great’ and then began doing the haka, a traditional Maori dance.”

3. “In a phone interview, Frejo told The Associated Press he felt they were mocking the dance and also heckling a couple of black men nearby.”

4. “Although he feared a mob mentality that could turn ugly, Frejo said he was at peace singing among the scorn and he briefly felt something special happen as they repeatedly sang the tune.”

5. “‘They went from mocking us and laughing at us to singing with us. I heard it three times,’ Frejo said.”

6. “A Native American man says he was thinking about his deceased wife and the struggles faced by indigenous communities while he was being taunted by a group of high school students after a rally in Washington.”

7. “A Catholic diocese in Kentucky is condemning the actions of some students from its all-male high school mocking a Native American man after a rally in Washington.”

8. “Officials say the students’ behavior is opposed to the church’s teachings on the dignity and respect of the human person. Church officials say they are investigating and will take appropriate action, up to and including expulsion.”

9. “A diocese in Kentucky is looking into videos that show youths, possibly from the diocese’s all-male high school, mocking Native Americans at a rally in Washington.”

**D. The Fourth False and Defamatory Article, January 20: “Omaha Tribe member in spotlight in face of taunting teens” (the “Fourth Article”)**

In its Fourth Article, *AP* published the following statements which must be retracted:

1. “Omaha Tribe member in spotlight in face of taunting teens.”
2. “In this Friday, Jan. 18, 2019 image made from video provided by the Survival Media Agency, a teenager wearing a ‘Make America Great Again’ hat, center left, stands in front of an elderly Native American singing and playing a drum in Washington. The Roman Catholic Diocese of Covington in Kentucky is looking into this and other videos that show youths, from the diocese’s all-male Covington Catholic High School, mocking Native Americans at a rally in Washington.”
3. “It’s even worse when you see the full mob effect.”
4. “Schilling, a correspondent for Indian Country Today who has written about Phillips, said he is ‘appalled at the level of disrespect’ displayed by the boys in the video.”
5. “VIDEO: Outrage as non-Native youth wearing #MAGA hats taunt and disrespect Native elder.”
6. ““We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church’s teachings on the dignity and respect of the human person. The matter is being investigated and we will take appropriate action, up to and including expulsion.””

**E. The Fifth False and Defamatory Article, January 21: “Native American man says he tried to ease tensions in DC”<sup>2</sup> (the “Fifth Article”)**

In its Fifth Article, *AP* published the following statements which must be retracted:

1. “A Native American who was seen in online video being taunted outside the Lincoln Memorial said Sunday he felt compelled to get between two groups with his ceremonial drum to defuse a confrontation.”

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<sup>2</sup> Although at this time I have not been able to locate this article on *AP*’s website, it was republished by *The Sacramento Bee* and others on January 21.



2. “Videos show a youth standing very close to Phillips and staring at him as he sang and played the drum. Other students – some in ‘Make America Great Again’ hats and sweatshirts – were chanting, laughing and jeering.”

3. “Other videos also showed ... the students ... taunt them [the Hebrew Israelites] in return.”

4. “In a joint statement, the Roman Catholic Diocese of Covington and Covington Catholic High School apologized and said they are investigating and will take ‘appropriate action, up to and including expulsion.’ ‘We extend our deepest apologies to Mr. Phillips,’ the diocese statement read. ‘This behavior is opposed to the Church’s teachings on the dignity and respect of the human person.’”

5. “He said his first interaction with the students came when they entered an area permitted for the Indigenous Peoples March. ‘They were making remarks to each other – (such as) ‘In my state those Indians are nothing but a bunch of drunks.’ How do I report that?’ he said. ‘These young people were just roughshodding through our space, like what’s been going on for 500 years here – just walking through our territories, feeling like this is ours.’”

6. “Marcus Frejo, a member of the Pawnee and Seminole tribes who is also known as Chief Quese Imc, said he had been a part of the march and was among a small group of people remaining after the rally when the boisterous students began chanting slogans such as ‘make America great’ and then began doing the haka, a traditional Maori dance. In a phone interview, Frejo told the AP he felt they were mocking the dance.”

**F. The Sixth False and Defamatory Article, January 21: “The Latest: Teen in video says he sought to calm tension” (the “Sixth Article”)**

In its Sixth Article, *AP* published the following statements which must be retracted:

1. “Videos also show members of the activist group yelling insults at the students, who taunt them in return.”

2. “Videos also show students chanting, laughing and jeering as Phillips sings and plays the drum.”

3. “Students at a Kentucky Catholic school who were involved in a video showing them mocking Native Americans outside the Lincoln Memorial after a Washington rally could potentially face expulsion.”

4. “In a joint statement, the Roman Catholic Diocese of Covington and Covington Catholic High School apologized and said they are investigating and will take ‘appropriate action, up to and including expulsion.’”

5. “Videos circulating online show a youth staring at and standing extremely close to Nathan Phillips, a 64-year-old Native American man singing and playing a drum. Other students, some wearing Covington clothing and many wearing ‘Make America Great Again’ hats and sweat shirts, surrounded them, chanting, laughing and jeering.”

**G. The Seventh False and Defamatory Article, January 21: “Catholic teen in viral video condemns ‘outright lies,’ feared adults sought ‘larger conflict’” (the “Seventh Article”)**

In its Seventh Article, *AP* published the following statement which must be retracted:

1. “The teens and Mr. Sandmann in particular have been accused of taunting Mr. Phillips, who has accused the boys of chanting ‘build the wall.’”
2. “Katy [sic] Taitano, a participant in the Indigenous Peoples March who posted video of the episode, told CNN that the ‘one kid just refused to move and he just got in Nathan’s face,’ which Sandmann disputed.”

**H. The Eighth False and Defamatory Article, January 21: “Teen in confrontation with Native American: I didn’t provoke” (the “Eighth Article”)**

In its Eighth Article, *AP* published the following statements which must be retracted:

1. “Videos show members of the religious group yelling disparaging and profane insults at the students, who taunt them in return.”
2. “Frejo, who is also known as Chief Quese Imc, told the AP in a phone interview that he felt the students were mocking the dance.”
3. “He said he heard people chanting ‘Build that wall’ or yelling, ‘Go back to the reservation.’ At one point, he said, he sought to ascend to the Lincoln statue and ‘pray for our country.’ Some students backed off, but one student wouldn’t let him move, he added.”
4. ““They were making remarks to each other ... (such as) “In my state those Indians are nothing but a bunch of drunks.” How do I report that?” Phillips said. ‘These young people were just roughshodding through our space, like what’s been going on for 500 years here — just walking through our territories, feeling like “this is ours.””’
5. “The Roman Catholic Diocese of Covington apologized for the incident on Saturday, saying ‘this behavior is opposed to the Church’s teachings on the dignity and respect of the human person.’ They promised to take ‘appropriate action, up to and including expulsion.’”



**I. The Ninth False and Defamatory Article, January 22: “3 groups, many videos, many interpretations of DC encounter” (the “Ninth Article”)**

In its Ninth Article, *AP* published the following statements which must be retracted:

1. “At first the focus was on a short video showing one of the high school students, Nick Sandmann, wearing a red ‘Make America Great Again’ hat and appearing to smirk while a crowd of other teens laughed derisively behind him, as he faced off against a 64-year-old Native American, Nathan Phillips, who played a traditional chant on a drum.”

2. “It was an ugly encounter of spewed epithets but one that nevertheless ended with no punches thrown or other violence.”

3. “Sandmann’s statement does seem at odds with some video from the confrontation that showed students from his school, Covington Catholic High in Park Hills, Kentucky, laughing at Phillips’ Native American group and mockingly singing along with him, as well as interviews with Phillips who said he heard the students shout ‘Build that wall!’ and ‘go back to the reservation!’”

4. “Phillips, an elder of the Omaha tribe, and Marcus Frejo, a member of the Pawnee and Seminole tribes, said they felt the students were mocking the dance and walked over to intervene.”

5. “The Indigenous Peoples Movement felt the encounter was a reminder the U.S. was founded on racism and President Donald Trump’s presidency is rekindling hatred based on skin color.”

6. “Trump has riled up a reactionary voting block that reminds us that we are a nation founded on patriarchy, genocide and racism. Trump is clearly giving these archaic instincts license, encouraging the kind of aggressive goading that I witnessed,” movement spokesman Chase Iron Eyes said in a statement.”

**J. The Tenth False and Defamatory Article, January 22: “In MLK Day speech, Mandela Barnes wades into DC protester controversy” (the “Tenth Article”)**

In its Tenth Article, *AP* published the following statements which must be retracted:

1. “Barnes called the Native American, Nathan Phillips, an ‘American hero’ and the teenagers a ‘mob’ who surrounded and taunted him — although information that surfaced after the encounter caused some to temper their initial condemnation of the teens.”

2. “Barnes, while discussing what he described as work still to be done, said: ‘Unfortunately, America can still be a mob of high school students wearing red hats, inspired by what they see in the nation’s highest office.’”

3. “‘The audacity of surrounding and taunting a Native American Vietnam war veteran!’ Barnes continued.”

4. “Video from the encounter appears to show some of the students from Covington Catholic High School in Park Hills, Kentucky, laughing at Phillips’ Native American group and mockingly singing along with him.”

5. “A viral image showed one of the teens face-to-face with Phillips, smirking.”

**K. The Eleventh False and Defamatory Article, January 22: “Nathan Phillips seeks meeting at Covington Catholic on racism, accuses student of ‘falsehoods’” (the “Eleventh Article”)**

In its Eleventh Article, *AP* published the following statements which must be retracted:

1. The headline “Nathan Phillips seeks meeting at Covington Catholic on racism, accuses student of ‘falsehoods’”

2. “Nathan Phillips sought Tuesday to meet with teens from Covington Catholic High School on racism and cultural appropriation while accusing one of the students of ‘intentional falsehoods’ about their viral encounter.”

3. “He also accused junior Nick Sandmann of ‘intentional falsehoods’ about their face-off. Mr. Sandmann said in a Sunday statement that Mr. Phillips ‘locked eyes with me and approached me, coming within inches of my face.’”

4. “‘I have read the statement from Nick Sandmann, the student who stared at me for a long time. He did not apologize, and I believe there are intentional falsehoods in his testimony,’ Mr. Phillips said.”

5. “Some media figures have backpedaled after initially denouncing the students, but the press release insisted that Mr. Phillips was ‘mocked’ by Catholic students who ‘took over and disrespected a sacred space wearing MAGA garb and chanting slogans in support of President Donald Trump.’”

6. “Shameful. A group of MAGA hat wearing youths taunted an elder singing and playing a ceremonial drum at yesterday’s #IndigenousPeoplesMarch. This is the face of Trump’s America: proud, obnoxious racism and disrespect.”



7. “‘The kids must not understand what their choices in attire and expression represent in a time when our president openly mocks Native Americans and closes the borders to Indigenous children,’ Mr. Iron Eyes said. ‘Racist rhetoric and actions are being normalized at the highest levels of the American government.’”

**L. The Twelfth False and Defamatory Article, January 23: “MAGA-hatted teens, a Native American and the peril of instant judgment” (the “Twelfth Article”)**

In its Twelfth Article, *AP* published the following statements which must be retracted:

1. “The impression left by the clip was of an arrogant white teenager harassing a person of color for the amusement of his rowdy classmates.”

2. “The Native American man, Nathan Phillips, told reporters he felt threatened by the crowd of teens and heard chants of ‘Build the wall.’”

3. “The students, a group from a Catholic boys’ high school in Covington, Ky., who were in the capital for the March for Life, were denounced on Twitter as racist bullies who had no respect for their elders. Calls went out for the boy and his friends to be expelled and shamed. The archdiocese of Covington condemned the students’ conduct, and the mayor disavowed it.”

**M. The Thirteenth False and Defamatory Article, January 23: “Kentucky school comes under fire after Washington incident” (the “Thirteenth Article”)**

In its Thirteenth Article, *AP* published the following statements which must be retracted:

1. “The transformation began with an online video that appeared to show a group of Covington Catholic boys in ‘Make American Great Again’ hats mocking a Native American protester as he beat a ceremonial drum at the Lincoln Memorial in Washington on Friday.”

2. “But Phillips said he heard students shout, ‘Build that wall!’ and ‘Go back to the reservation!’”

3. “On Saturday, the Roman Catholic Diocese of Covington condemned the students’ actions and promised to take appropriate action ‘up to and including expulsion.’”

**N. The Fourteenth False and Defamatory Article, January 23: “Nick Sandmann, Covington student: ‘I had every right’ to stand my ground during the confrontation” (the “Fourteenth Article”)**

In its Fourteenth Article, *AP* published the following statements which must be retracted:

1. “Mr. Sandmann, who in the videos can be seen staring back at Mr. Phillips with what some have described as a smirk, said he wasn’t intending to be disrespectful.”

2. “Mr. Phillips, who has done several interviews after the incident went viral, disputes Mr. Sandmann’s version of events. He contends that Mr. Sandmann locked eyes with him and approached him.”

3. ““I have read the statement from Nick Sandmann, the student who stared at me for a long time. He did not apologize, and I believe there are intentional falsehoods in his testimony,” Mr. Phillips said.”

**O. The Fifteenth False and Defamatory Article, January 23: “Correction: Native American March-Videos story” (the “Fifteenth Article”)**

In its Fifteenth Article, *AP* published the following statements which must be retracted:

1. “Videos show members of the religious group yelling disparaging and profane insults at the students, who taunt them in return.”

2. “He said he heard people chanting ‘Build that wall’ or yelling ‘Go back to the reservation.’ At one point, he said, he sought to ascend to the Lincoln statue and ‘pray for our country.’ Some students backed off, but one student wouldn’t let him move, he added.”

3. ““They were making remarks to each other ... (such as) ‘In my state those Indians are nothing but a bunch of drunks.’ How do I report that?” Phillips said. ‘These young people were just roughshodding through our space, like what’s been going on for 500 years here – just walking through our territories, feeling like “this is ours.”’”

4. “The Roman Catholic Diocese of Covington apologized for the incident on Saturday, saying ‘this behavior is opposed to the Church’s teachings on the dignity and respect of the human person.’ They promised to take ‘appropriate action, up to and including expulsion.’”

**P. The Sixteenth False and Defamatory Article, January 24: “Indigenous activist in the US says she [sic] forgives boys” (the “Sixteenth Article”)**

In its Sixteenth Article, *AP* published the following statements which must be retracted:

1. “Phillips said white teens were chanting furiously at black street preachers, and ‘it was getting really explosive.’”

2. “The activist said that the native American settlers soon found themselves surrounded by youngsters.”

3. ““They blocked us,’ he said.”



**Q. The Seventeenth False and Defamatory Article, January 24: “Native American activist says he forgives boys in videos” (the “Seventeenth Article”)**

In its Seventeenth Article, *AP* published the following statements which must be retracted:

1. “So even though he’s angry, Phillips told NBC’s Today show on Thursday that he has forgiveness for the boys from Kentucky’s Covington Catholic High School who he said could be seen mocking Native Americans in videos.”
2. “Phillips said the white boys were angrily chanting at a group of black street preachers, and ‘it was really getting explosive.’”
3. “Phillips said the Native Americans soon found themselves surrounded by the boys. ‘We were blocked,’ he said.”

**R. The Eighteenth False and Defamatory Article, January 24: “America is not always the ‘promised land’” (the “Eighteenth Article”)**

In its Eighteenth Article, *AP* published the following statements which must be retracted:

1. “Sadly, bigotry is alive and well in America. On the day of the first Indigenous Peoples March in Washington, D.C., a group of teenagers confronted Native Americans. Videos show Nathan Phillips, a 64-year-old Native American man and Vietnam veteran, singing and playing a drum while being mocked and taunted by adolescents (‘Students in “MAGA” hats mock Native American after rally,’ Jan. 20).”
2. “Each student should apologize and take sensitivity training on bigotry and intolerance. The primary culprit should be expelled, and those who participated in this shameful incident should be suspended. Perhaps we have not come so far from the days of Dr. Martin Luther King Jr. Today’s America is certainly not the “promised land” for many.”

**S. The Nineteenth False and Defamatory Article, January 26: “Bill Maher blasts Covington Catholic student Nick Sandmann over ‘smirk heard ‘round the world’” (the “Nineteenth Article”)**

In its Nineteenth Article, *AP* published the following statements which must be retracted:

1. “I don’t blame the kid, the smirk-face kid. I blame lead poisoning and bad parenting. And, oh yeah, I blame that [expletive] kid. What a little [expletive] . . . .”
2. “This smirking kid says he was just trying to defuse the situation. Really? Next time you get into a fight with your wife or your husband or your boyfriend or your girlfriend, try

that. Try getting two inches from their face with a [expletive]-eating grin. . . and see if it defuses the situation,' Mr. Maher said Friday."

If *AP* seeks to justify its false and defamatory reporting based on the initial statement issued by the Diocese of Covington and Covington Catholic High School, such reliance will be misplaced and will provide no legal defense. As you well know, republishers are liable for the false and defamatory statements of the original publisher – a talebearer is as bad as the talemaker. In his letter of January 25, 2019, to Covington Catholic Parents (copy enclosed), the Bishop of Covington, the Most Reverend Roger J. Foys, D.D., admitted that the initial statement of the Diocese was in error and was issued prematurely before the incident had been investigated:

We are sorry that this situation has caused such disruption in the lives of so many. We apologize to anyone who has been offended in any way by either of our statements which were made with good will based on the information we had. We should not have allowed ourselves to be bullied and pressured into making a statement prematurely, and we take full responsibility for it. I especially apologize to Nicholas Sandmann and his family as well as to all CovCath families who have felt abandoned during this ordeal. Nicholas unfortunately has become the face of these allegations based on video clips. This is not fair. It is not just.

The reckless and negligent rush to judgment by *AP* mirrored the reckless and negligent conduct of the Diocese of Covington and Covington Catholic High School.

*AP*'s retraction of the false statements identified herein must be published in as conspicuous a manner as they were originally published. To fully retract and correct the false statements, I further demand that *AP* publish the Video on its Internet home page for a period of no less than 72 hours. Please notify me in writing when these actions have been accomplished.

Finally, this letter also serves as notice to *AP* and each of its affiliated entities, journalists, correspondents, editors, employees, agents, assignees, and other persons acting on its behalf or in concert with it (collectively, "you") to preserve any and all evidence related in any way to the abovementioned accusations you made and any other accusations that you have published regarding Nick (collectively, "your accusations against Nick"). By this letter, you are hereby directed not to destroy, conceal, or alter any paper or electronic files, physical evidence, and/or other data relating in any way, no matter how remote, to your accusations against Nick, and/or the circumstances leading to their dissemination, including, but not limited to: (1) all communications between you and any third party in any way related to your accusations against Nick; (2) all sources for your accusations against Nick; (3) any and all documents and data referring to, reflecting, or relating to communications between you and any such third-parties and/or sources regarding your accusations against Nick; (4) all of your internal communications in any way related to your accusations against Nick; and (5) any and all other documents in any way related to your accusations against Nick or the January 18 Events.



I understand that many records and files are maintained electronically. However, this letter specifically requests that all paper and hard copy originals be maintained and preserved in their original format. By the same token, electronic documents and the storage media on which they reside may contain relevant, discoverable information beyond that which may be found in printed documents. Therefore, even where a paper copy exists and has been preserved, please preserve and maintain all electronically stored documents in their original native format, including all metadata. This preservation demand specifically encompasses any and all electronic documents, including but not limited to, all word-processed files, e-mails, spreadsheets, all databases, log files, and any other electronically stored and/or generated documents or files.

Govern yourself accordingly.

Sincerely,



L. Lin Wood

cc: Todd McMurtry, Esq.  
The Sandmann Family

**Greater Cincinnati Investigation, Inc.  
718 Valley Square Drive  
Taylor Mill, KY 41015**

**Final Investigative Report**

**February 11, 2019**

On Tuesday, January 22, 2019, Greater Cincinnati Investigation (GCI) was retained by Dressman, Benzinger, Lavelle (DBL LAW) on behalf of the Covington Diocese and Covington Catholic High School to investigate the incident on Friday, January 18, 2019, at the Lincoln Memorial involving students at Covington Catholic High School, The Black Hebrew Israelites and the Native Americans who were part of an Indigenous People March.

**Scope of Investigation**

The scope of the investigation was to interview and take statements from Covington Catholic students and their chaperones who were in attendance, to identify, locate and interview 3<sup>rd</sup> party witnesses who were present, to review and monitor social media posts and news articles, and to attempt to locate and review any additional video that might be available.

Since January 22, we have devoted approximately 240 man hours in the investigation to date, involving four (4) licensed investigators.

Students attending the trip were asked to voluntarily give their statements regarding the events of January 18. We separately interviewed 43 students. Parents were invited to attend the interviews with their sons, and parents did so in approximately one-third of the interviews.

There were sixteen (16) adult chaperones on the trip. We spoke with all nine (9) faculty chaperones and four (4) parent chaperones.

We reviewed approximately fifty (50) hours of internet activity, including but not limited to all major news networks, YouTube, Vimeo, social media accounts on Facebook, Instagram, Twitter.

We attempted to obtain surveillance video from the Lincoln Memorial. We have reached out to the National Park Service by phone and e-mail. To date our efforts have been unsuccessful.

We were able to locate a social media account that goes by @trevonallworthy aka King Trevon. King Trevon has posted several videos from the Lincoln Memorial. We have reached out to King Trevon on two (2) different social media sites and to date he has not responded back. His videos are confirmatory to our findings.

Attempts were made through legal counsel to take Nick Sandmann's in-person statement. We were asked to consider his written statement of January 20, 2019.

We have attempted to reach out to Mr. Phillips by phone and by e-mail, informing him that we desired to interview him in person and that we were prepared to meet him in Michigan or any location he might prefer. We also sent Mr. Phillips' daughter an e-mail as they both appear to be involved in the Native Youth Alliance and have shared their e-mail addresses after the event to



thank everyone for reaching out and supporting them. We never received a response to our inquiries. In addition, our investigators travelled to Ypsilanti, Michigan to seek a personal interview. We are confident that we visited Mr. Phillips' residence. He was not present over a six-hour period and we left a note asking him to contact us. We have not received a response.

### **Key Findings**

#### *Students*

- The students traveled from Park Hills, KY to Washington DC to attend the March for Life. Some of the students stressed that they attended because of their faith, some stated it was to get service hours, and some stated it was to get out of school and spend time with their friends.
- The students arrived at the Lincoln Memorial at different times. The students who arrived earlier encountered the Black Hebrew Israelites, who clearly addressed offensive statements to the students. We see no evidence that students responded with any offensive or racist statements of their own.
- Some of the students asked the chaperones if they could do their school cheers to help drown out the Black Hebrew Israelites. In years past students have performed school cheers at the Lincoln Memorial. Video evidence supports a finding that the Black Hebrew Israelites were laughing along with the students during the "sumo" cheer. The cheers performed at the Lincoln Memorial are commonly performed at football or basketball games.
- We found no evidence that the students performed a "Build the Wall" chant.
- After the interaction with the Black Hebrew Israelites, Mr. Phillips approached the students. Most of the students state that they felt like he was coming into their group to join in with the students' cheers. None of the students felt threatened by Mr. Phillips and many stated they were "confused."
- We found no evidence of offensive or racist statements by students to Mr. Phillips or members of his group. Some students performed a "tomahawk chop" to the beat of Mr. Phillips' drumming and some joined in Mr. Phillips' chant.
- As the interaction between Nick Sandmann and Mr. Phillips ended, most of the students reported that they again turned their attention back to the Black Hebrew Israelites. Chaperones moved students to the buses shortly thereafter.
- Some students stated that one of the chaperones reminded the students that, if they engaged in a verbal exchange with the Black Hebrew Israelites, they would receive detention when returning to school. Video evidence shows that this happened approximately five minutes before the students can be seen heading to the buses.

- As the students began leaving the area, one student was stopped by a uniformed police officer for running. It was reported that the officer advised this student he should not be running at the Lincoln Memorial. We saw no uniformed police presence at the Lincoln Memorial while students were there.

### *Chaperones*

- Several of the chaperones arrived with their groups of students after the fact, as they attended the last viewing of the changing of the guard at Arlington Cemetery at 5:00 p.m. Nine (9) chaperones report being present at the Lincoln Memorial when the main interactions took place. Video confirms at least five (5) chaperones were present.
- Video confirms that toward the end of the interactions between Nick Sandmann and Mr. Phillips, at least two (2) chaperones can be seen telling the students that the buses are arriving. At this time, most of the students' attention was directed to the Black Hebrew Israelites. Also at this time a chaperone can be observed telling the students to "back it up," moving them back from the Black Hebrew Israelites. This happened approximately 4-5 minutes before the students headed to the buses.
- The chaperones who were at the Lincoln Memorial and who witnessed the interaction between the students and Black Hebrew Israelites stated that the Black Hebrew Israelites were saying offensive things to anyone that walked by and not just the students. During this time the chaperones never felt like the students were in any danger.
- The chaperones present during the interaction with Mr. Phillips state that they did not feel the students were threatened by Mr. Phillips or his group.
- After Mr. Phillips exited the area, the students' attention turned back to the Black Hebrew Israelites. Shortly thereafter, the chaperones decided to tell the students the buses were present even though at that point they had not arrived. Students were not instructed to "move to the buses" until after the interactions with the Black Hebrew Israelites and Mr. Phillips.

### *Make America Great Again Hats (MAGA Hats)*

- Students and chaperones stated that few, if any, students were wearing MAGA hats when they left Covington Catholic to head to Washington DC. Most students purchased the hats before, during or after the March for Life.
- In years past, some chaperones reported that some students had purchased "Hope" hats in support of President Obama.
- We found no evidence of a school policy prohibiting political apparel on school-sponsored trips.



### *Investigation into the Comment "It's Not Rape If You Enjoy It"*

- An individual can be heard making a comment that "it's not rape if you enjoy it" while the students were at the Lincoln Memorial.
- Our investigation concludes that the individual who made the comment was not a student at Covington Catholic. In addition, viewing longer videos of this comment reveals that a person in the crowd states, "He does not go to CovCath" almost immediately after the comment was made.

### *7 Second Video*

- There was a 7 second video posted on Twitter by @roflinds that shows a group of boys making comments to two females as they walk by.
- We cannot confirm that the students in the video are students at Covington Catholic. It is also not totally clear what was said in the video.

### *Nick Sandmann*

- Mr. Sandmann's January 20, 2019, statement appears to accurately reflect the facts surrounding the interaction between the students and the Black Hebrew Israelites.
- Regarding the interaction with Mr. Phillips, Mr. Sandmann reports that he was concerned a situation was getting out of control. He states that he was attempting to defuse the situation.

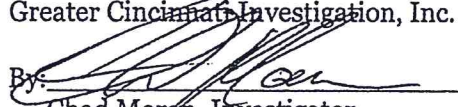
### *Mr. Phillips*

- Mr. Phillips' public interviews contain some inconsistencies, and we have not been able to resolve them or verify his comments due to our inability to contact him.

### **Conclusion**

- The statements we obtained from students and chaperones are remarkably consistent. And, the statements are consistent with the videos we reviewed. As with any investigation, new evidence could come to light in the future. We are professionally satisfied that, at this time, it is proper to close the investigation and issue this final report.

Greater Cincinnati Investigation, Inc.

By:   
Chad Moran, Investigator



## DIOCESE OF COVINGTON

Office of the Bishop

1125 Madison Avenue, Covington KY 41011-3115

Phone: (859) 392-1512 • Fax: (859) 392-1508

25 January 2019

My dear Covington Catholic Parents,

Since Saturday, 19 January 2019 the events at the Lincoln Memorial following the annual March for Life have gained international attention. Within hours we were being pressured from all sides to make a statement regarding a video clip which purportedly showed students from Covington Catholic High School being disrespectful to Native American Elder Nathan Phillips. Based on what the video clip showed we condemned the actions of students who engaged in the alleged disrespect and promised to investigate the matter.

Since that time other video clips – some of much longer duration – have surfaced. Once these went viral some of the very same people who had put tremendous pressure on us to condemn the actions of the students now wanted a retraction from anyone who had previously issued a statement critical of them. All of this was based again on a video.

Subsequently, there have been death threats to some of the students and their families. The vitriol and hateful comments on some online stories, some of them appearing on websites that purport to be Catholic and pro-life, have been beyond belief and anything but pro-life. We even had a bomb scare at the Curia offices and had to close the Curia and Covington Latin School (across from the Curia) in light of safety issues. People who are not at all familiar with Covington Catholic High School, its students, faculty, staff, administration and/or the Diocese of Covington have felt free to criticize in the harshest terms.

Having issued a second statement that said that we have engaged a third-party investigative team to do a thorough and in-depth investigation into the events that transpired on Friday, 18 January, it was our hope that this would ameliorate some of the hate being spewed on the internet and other news media. Unfortunately, this did not happen and people are still lined up on either side.


We are sorry that this situation has caused such disruption in the lives of so many. We apologize to anyone who has been offended in any way by either of our statements which were made with good will based on the information we had. We should not have allowed ourselves to be bullied and pressured into making a statement prematurely, and we take full responsibility for it. I especially apologize to Nicholas Sandmann and his family as well as to all CovCath families who have felt abandoned during this ordeal. Nicholas unfortunately has become the face of these allegations based on video clips. This is not fair. It is not just.

We now await the results of the investigation and it is my hope and expectation that the results will exonerate our students so that they can move forward with their lives. In any event, we will make the final report public once it has been received. In the meantime, we call on all those who continue to spew venom and hate to desist and instead pray for a peaceful resolution to this tragic spectacle.

Mr. Robert Rowe, the Principal of Covington Catholic High School, has also been the target of this venom. He is a fine leader and role model for every student at CovCath and I support him unequivocally. Those calling for his resignation simply do not know him.

This has been a trying time for all of us. I pray that with the grace of God and the goodwill of all involved peace will once again reign in the hearts and minds of our faithful. As for CovCath, we have a spirit that will not die!

Yours devotedly in the Lord,

+ 

Most Reverend Roger J. Foy, D.D.  
Bishop of Covington